



State of Tennessee

PUBLIC CHAPTER NO. 736

SENATE BILL NO. 2064

By Watson

Substituted for: House Bill No. 2056

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 34; Title 8, Chapter 35; Title 8, Chapter 36; Title 8, Chapter 37 and Section 17-2-305, relative to retirement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-101(49)(A), is amended by deleting the language "helping teacher,".

SECTION 2. Tennessee Code Annotated, Section 8-34-101(23), is amended by adding the language ", companies, or organizations" immediately after the word "physicians".

SECTION 3. Tennessee Code Annotated, Section 8-34-401, is amended by adding the following at the end of the section:

Notwithstanding this section or any other law to the contrary, the board of trustees is authorized to contract with one (1) or more companies or organizations for all or any part of the services necessary or desirable for the management and operation of the disability retirement program authorized in chapter 36, part 5 of this title, including medical advisory services. Any company or organization engaged to provide the medical advisory services shall be deemed a medical advisor for purposes of this part and for purposes of chapter 36, part 5 of this title.

SECTION 4. Tennessee Code Annotated, Section 8-35-255, is amended by deleting the last sentence of subsection (h) and substituting instead the following:

This provision does not preclude any cost-of-living adjustments authorized pursuant to § 8-36-701(b)(1) and (2). Notwithstanding this subsection (h), the service retirement allowance payable under this section shall not exceed ninety percent (90%) of the member's average final compensation, as may be adjusted by the cost-of-living provisions of § 8-36-701(b)(1) and (2).

SECTION 5. Tennessee Code Annotated, Section 8-35-256, is amended by deleting the last sentence of subsection (h) and substituting instead the following:

The member's annual pension benefit shall be limited to the base benefit in effect at the time of the member's retirement, but shall be subject to increase in accordance with the cost-of-living provisions of § 8-36-701(b)(1) and (2). Notwithstanding this subsection (h), the service retirement allowance payable under this section shall not exceed ninety percent (90%) of the member's average final compensation, as may be adjusted by the cost-of-living provisions of § 8-36-701(b)(1) and (2).

SECTION 6. Tennessee Code Annotated, Section 8-35-206, is amended by deleting the first sentence of subsection (h) and substituting instead the following:

Notwithstanding any other law to the contrary, any employer that desires to participate in the retirement system on or after July 1, 2016, shall, as a condition of participating, pay its accrued unfunded liability, if any, in a lump sum or through an increase in the employer's contribution rate for the next fiscal year (July 1-June 30) following the adoption of the participation resolution by the employer.

SECTION 7. Tennessee Code Annotated, Section 8-36-302, is amended by deleting subsection (a) and substituting instead the following:

(a) Notwithstanding any other law to the contrary and beginning on November 1, 1982, any of the following employees who are not eligible for social security coverage shall be eligible for early service retirement upon the completion of ten (10) years of membership service in a position covered by a local retirement system as provided for in chapter 35, part 3 of this title; the Tennessee consolidated retirement system; or a superseded system:

- (1) General employee;
- (2) Firefighter or police officer;
- (3) Teacher; and
- (4) Member of a local retirement system.

SECTION 8. Tennessee Code Annotated, Section 8-36-203, is amended by adding the following as a new subdivision (2) and by redesignating existing subdivision (2) and the remaining subdivisions accordingly:

(2) A member may submit only one (1) retirement application even if the member has service credit in one (1) or more of the four (4) defined benefit plans administered by the retirement system pursuant to chapters 34-37 of this title. The retirement payment plan and beneficiary selected by the member on the retirement application shall be the same for all of the plans and may not be changed or revoked, except as provided in part 6 of this chapter. The retirement system shall pay benefits from each of the applicable plans on the member's effective date of retirement; provided, that the member has met the eligibility requirements of the particular plan for a retirement allowance. If on a member's effective date of retirement the member has not met the eligibility requirements for a retirement allowance from a particular plan, the retirement system shall commence payments from that plan once the member meets the eligibility requirements of the plan.

SECTION 9. Tennessee Code Annotated, Section 8-36-303, is amended by designating the existing language as subsection (a) and adding the following as subsection (b):

(b) A member may submit only one (1) retirement application even if the member has service credit in one (1) or more of the four (4) defined benefit plans administered by the retirement system pursuant to chapters 34-37 of this title. The retirement payment plan and beneficiary selected by the member on the retirement application shall be the same for all of the plans and may not be changed or revoked, except as provided in part 6 of this chapter. The retirement system shall pay benefits from each of the applicable plans on the member's effective date of retirement; provided, that the member has met the eligibility requirements of the particular plan for a retirement allowance. If on a member's effective date of retirement the member has not met the eligibility requirements for a retirement allowance from a particular plan, the retirement system shall commence payments from that plan once the member meets the eligibility requirements of the plan.

SECTION 10. Tennessee Code Annotated, Section 8-35-116, is amended by deleting the section and substituting instead the following:

(a)(1) Notwithstanding any other law to the contrary, and except as provided in subdivision (a)(2), all county officials or county judges taking office after July 1, 1977, may become members of the Tennessee consolidated retirement system only in accordance with part 2 of this chapter, and shall be allowed to participate in the Tennessee consolidated retirement system if the county in which they are employed is participating in accordance with part 2 of this chapter.

(2) Any such county official or county judge who takes office on or after July 1, 2018, shall become a member of the Tennessee consolidated retirement system as a condition of taking office if the county official or county judge is a current or former member of the retirement system. This subdivision (a)(2) shall not apply if the county official or county judge was in office as a county official or county judge with the county on the date the county elected to participate in the retirement system, unless the county official or county judge was a member or former member of a closed preexisting defined benefit plan maintained by that county.

(3) The county shall be responsible for all employer costs on behalf of its county officials and county judges as provided in part 2 of this chapter.

(b)(1) Notwithstanding subsection (a) or any other law to the contrary, full-time employees in the positions of county judges and county officials, as these terms are defined in chapter 34 of this title, in office or taking office after June 30, 1981, may participate in the retirement system as Group 1 members in accordance with chapters 34-37 of this title and this subsection (b) under the following terms and conditions:

(A) Except as provided in subdivision (b)(1)(C), any such county official or county judge taking office on or after July 1, 2018, shall participate in the Tennessee consolidated retirement system as a condition of taking office if the county official or county judge is a current or former member of the retirement system;

(B) The employer cost of such participation shall be paid from funds appropriated by the county legislative body for the office of the participating judge or official or from the excess fees of the participating official's office, where such excess fees are available;

(C) Participation in the Tennessee consolidated retirement system shall not be available to county judges or county officials in counties that provide a county retirement system in which such judges or officials may participate unless:

(i) The county legislative body passes a resolution allowing such election; provided, that the passage of the resolution shall not be required for any person who has obtained vesting in the Tennessee consolidated retirement system and who is elected or appointed as a county judge or county official;

(ii) The participation is approved by the state retirement division; and

(iii) The county official or county judge is not a current or former member of the county retirement system;

(D) The state's share of any additional costs of this section shall be funded from the increase in state-imposed taxes that are earmarked to counties and that are not designated to be used by such counties for a particular purpose;

(E) All employer and employee contributions, together with investment earnings made on behalf of persons covered under this subsection (b), must be equal to or exceed benefits that will be paid out. Employees participating pursuant to this subsection (b) shall contribute to the retirement system at a rate of five percent (5%) of earnable compensation or, in lieu of employee contributions, the employer may pay or cause to be paid all or part of such contributions on behalf of the employees. Employer contributions shall be determined by the state retirement division based on an actuarial valuation for each county with county officials electing to participate under this subsection (b);

(F) Any liabilities resulting from the participation of a county under this subsection (b) shall be a liability of the county and not the state. If any required employer costs become delinquent, the commissioner of finance and administration, at the direction of the board of trustees of the retirement system, is authorized to withhold such amount or part of such amount from any state-shared taxes that are otherwise apportioned to the county; and

(G) In the event of withdrawal of a county participating under this subsection (b), the assets of the county shall be distributed in accordance with § 8-35-211.

(2) The governing body of a county may pass a resolution to permit its county judges and county officials who participate in the retirement system pursuant to this subsection (b) to claim prior service credit for service rendered as full-time county general employees, county judges, or county officials, if the county authorizes the credit and assumes the liability for such prior service. Upon the authorization and assumption of the liability for prior service credit by the county, the county official or county judge shall be entitled to receive credit for such prior service only by the making of a lump sum payment of the contributions the official or judge would have made had the official or judge been a member, plus interest at the rate provided for in

§ 8-37-214. Except as otherwise provided in chapter 36, part 8 of this title, no person who has service credit in the retirement system under this subsection (b) shall be permitted to draw a retirement allowance from the system if the person continues or returns to service with the county in an employment classification for which the person received service credit under this subsection (b). For purposes of this subdivision (b)(2), "employment classification" means county general employee, county judge, or county official as those terms are defined in § 8-34-101. Notwithstanding any other law to the contrary, on or after January 1, 2009, county officials and county judges may claim prior service credit in the retirement system for service rendered as county general employees only if the county for which they are employed is participating in accordance with part 2 of this chapter, and only for periods of previous service that are authorized for other employees of the county.

(3) Any person entitled to participate in the retirement system under this subsection (b) shall be entitled to all rights, benefits, and privileges accruing under chapters 34-37 of this title, except as otherwise provided in this subsection (b), and such person shall be prohibited from participating in any other retirement system while at the same time participating in the Tennessee consolidated retirement system.

(4) A county judge or county official must choose to participate in either the consolidated retirement system in accordance with this subsection (b) or a county retirement system. A county judge or county official who is covered by a county system shall not be eligible to participate in the consolidated system.

SECTION 11. Tennessee Code Annotated, Title 8, Chapter 35, Part 1, is amended by adding the following as a new, appropriately designated section:

(a) Notwithstanding any other law to the contrary and except as provided in subsection (b), any current or former member of the retirement system or of a superseded system who accepts, or is elected to, a position on or after July 1, 2018, for which membership in the retirement system is otherwise optional shall become a member of the retirement system as a condition of employment.

(b) Subsection (a) shall not apply to an employee having optional membership who was employed by a political subdivision on the date the political subdivision elected to extend retirement coverage to the employee, unless the employee was a member or former member of a preexisting defined benefit plan maintained by that political subdivision. For purposes of this section, "political subdivision" means any entity authorized to participate in the retirement system pursuant to chapter 35, part 2 of this title.

(c) This section shall not apply to retired members of the retirement system or of a superseded system who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-810, § 8-36-818, or § 8-36-821.

SECTION 12. Tennessee Code Annotated, Section 8-36-903(c)(1), is amended by deleting the language "Membership in the hybrid plan" and substituting instead the language "Except as provided in subdivision (c)(6), membership in the hybrid plan".

SECTION 13. Tennessee Code Annotated, Section 8-36-903(c)(2), is amended by deleting the language "Notwithstanding this subsection (c) or any other law to the contrary" and substituting instead the language "Notwithstanding any other law to the contrary and except as provided in subdivision (c)(6)".

SECTION 14. Tennessee Code Annotated, Section 8-36-903(c)(3), is amended by deleting the language "Notwithstanding this subsection (c), § 8-35-109, or any other law to the contrary" and substituting instead the language "Notwithstanding any other law to the contrary and except as provided in subdivision (c)(6)".

SECTION 15. Tennessee Code Annotated, Section 8-36-903(c)(4), is amended by deleting the language "Notwithstanding this subsection (c), § 8-35-113(c), or any other law to the contrary" and substituting instead the language "Notwithstanding any other law to the contrary and except as provided in subdivision (c)(6)".

SECTION 16. Tennessee Code Annotated, Section 8-36-903(c), is amended by adding the following new subdivision (c)(6):

(6) Notwithstanding this subsection (c), any current or former member of the retirement system or of a superseded system who accepts, or is elected to, a position on or after July 1, 2018, for which membership in the hybrid plan is otherwise optional pursuant to this subsection (c) shall become a member of the hybrid plan as a condition of employment.

This subdivision (c)(6) shall not apply to retired members of the retirement system or of a superseded system who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-810, § 8-36-818, or § 8-36-821.

SECTION 17. Tennessee Code Annotated, Section 8-36-919(a)(1)(A), is amended by deleting the language "as provided in subdivision (a)(2)" and substituting instead the language "as provided in subdivisions (a)(2) and (3)".

SECTION 18. Tennessee Code Annotated, Section 8-36-919(a)(1)(B), is amended by deleting the language "provided, however, that membership" and substituting instead the language "provided, however, and except as provided in subdivision (a)(3), membership".

SECTION 19. Tennessee Code Annotated, Section 8-36-919, is amended by deleting from the current subdivision (a)(3) the language "(a)(3)" wherever it appears and substituting instead the language "(a)(4)".

SECTION 20. Tennessee Code Annotated, Section 8-36-919(a), is amended by adding the following as a new subdivision (3) and by redesignating existing subdivision (3) accordingly:

(3)(A) Except as provided in subdivision (a)(3)(B), any current or former member of the retirement system or of a superseded system who accepts, or is elected to, a position on or after July 1, 2018, for which membership in the hybrid plan is otherwise optional pursuant to subdivision (a)(1) shall become a member of the hybrid plan as a condition of employment.

(B) Subdivision (a)(3)(A) shall not apply to an employee having optional membership who was employed by a political subdivision on the date the political subdivision elected to extend retirement coverage to the employee, unless the employee was a member or former member of a preexisting defined benefit plan maintained by that employer. Subdivision (a)(3)(A) shall also not apply to retired members of the retirement system who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-818, or § 8-36-821.

SECTION 21. Tennessee Code Annotated, Section 8-36-801(b), is amended by deleting the reference "8-36-802(e)" and substituting instead "8-36-802(c)".

SECTION 22. Tennessee Code Annotated, Section 8-36-801, is amended by adding the following as a new subsection (c):

(c) Notwithstanding subsection (b), any retiree who is hired or rehired in a position covered by the retirement system on or after July 1, 2018, shall reenroll as an active member of the retirement system, make such contributions as are required for the retiree's position, and establish credit for the additional service. This subsection (c) shall not apply to retirees who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-810, § 8-36-818, or § 8-36-821. This subsection (c) shall also not apply to retired members who are employees of a political subdivision that subsequently elects to cover its employees under the retirement system, unless the employee was a member or former member of a preexisting defined benefit plan maintained by that political subdivision.

SECTION 23. Tennessee Code Annotated, Section 8-36-802, is amended by deleting the section and substituting instead the following:

(a) If a retiree restored to employment reenrolls as an active member of the retirement system, the excess, if any, of the retired member's accumulated contributions at retirement over the sum of the retirement allowance payments received by the retired member shall be credited to the retiree as accumulated contributions.

(b) Any creditable service to which the retiree was entitled when the retiree retired shall be restored to the retiree, and upon subsequent retirement, the retiree's retirement allowance shall be based on the retiree's compensation and creditable service before and after the period of prior retirement.

(c)(1) If the retiree does not complete three (3) years of creditable service after restoration to service, the part of the retiree's retirement allowance upon subsequent retirement payable with respect to creditable service rendered before the period of the retiree's previous retirement, or included in the computation of the retiree's previous retirement allowance, shall be equal to the retiree's previous retirement allowance with all of the provisions of the retirement payment plan elected by the retiree, with respect to such part of the retiree's retirement allowance.

(2) If the retiree completes three (3) years or more of creditable service after restoration to service, the retirement payment plan elected by the retiree shall be void. Upon subsequent retirement, the retiree shall again elect the payment plan under which the retiree's retirement benefits shall be paid. The benefits shall be recomputed under such plan based on the total service and salary credit accrued by the retiree both before and after the retiree's previous retirement, unless such recomputation results in the retiree receiving a lower retirement allowance than the retiree would have received under that plan prior to restoration to service. If the recomputation results in a lower allowance, then the retiree's retirement allowance under the payment plan elected upon subsequent retirement shall be computed pursuant to subdivision (c)(1). Notwithstanding this subsection (c) or any other law to the contrary, the retirement benefits of any retiree who previously elected the social security leveling retirement payment plan pursuant to § 8-36-601(c) shall not be recomputed pursuant to this subdivision (c)(2) unless the retiree pays to the retirement system the difference in benefits received under the social security leveling plan during the retiree's previous retirement and the regular retirement payment plan. Any such retiree who fails to make such payment shall have such retiree's benefits computed pursuant to subdivision (c)(1).

SECTION 24. Tennessee Code Annotated, Section 8-36-803, is amended by deleting the section and substituting instead the following:

Should the reemployed retiree elect not to participate as provided in § 8-36-801, the retiree shall make no further contributions nor establish any additional service, but, upon final retirement, shall be entitled to the same benefits to which the retiree was entitled before restoration to service.

SECTION 25. Tennessee Code Annotated, Section 8-36-806, is amended by redesignating subdivision (d)(1) as subdivision (d)(1)(A); redesignating subdivision (d)(2) as subdivision (d)(1)(B); redesignating subsection (e) as subdivision (d)(2); and adding the following as a new subdivision (d)(3):

(3) Notwithstanding this subsection (d) to the contrary, any retired judge assigned to duty under this section on or after July 1, 2018, shall reenroll as an active member of the retirement system, make such contributions as are required for the retiree's position, and establish credit for the additional service.

SECTION 26. Tennessee Code Annotated, Section 8-36-808, is amended by deleting subsection (a) and substituting instead the following:

(a) Notwithstanding any law to the contrary, any retired member of the Tennessee consolidated retirement system or of any superseded system administered by the state of Tennessee who becomes a member of the general assembly after November 1, 1982, may continue service in the general assembly without loss or suspension of retirement benefits; provided, that:

(1) The retirement benefits are based on service and salary rendered in a capacity other than that as a general assembly member; and

(2) For any such retiree who is elected to the general assembly on or after July 1, 2018, the retiree shall reenroll as an active member of the retirement system, make such contributions as are required for the retiree's position, and establish credit for the general assembly service.

SECTION 27. Tennessee Code Annotated, Section 17-2-305, is amended by redesignating subdivision (b)(2) as subdivision (b)(2)(A); redesignating subdivisions (b)(2)(A) and (B) as (b)(2)(A)(i) and (ii); redesignating subdivision (b)(3) as (b)(2)(B); and adding the following as a new subdivision (b)(3):

(3) Notwithstanding this subsection (b) to the contrary, any former judge who is a retired member of the Tennessee consolidated retirement system or of a superseded system as defined in § 8-34-101 and who is designated or redesignated as a senior justice or judge on or after July 1, 2018, shall reenroll as an active member of the retirement system, make such contributions as are required for the judge's position, and establish credit for the additional service.

SECTION 28. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 29. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2064

PASSED: April 2, 2018


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of April 2018


BILL HASLAM, GOVERNOR